

43 Cal.3d 534
734 P.2d 987, 236 Cal.Rptr. 151
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In re BERNARD P. McCULLOUGH, a Judge of the Justice Court, on
Censure

S.F. No. 25030.

Supreme Court of California.

Apr 17, 1987.

SUMMARY

The Commission on Judicial Performance recommended that a justice court judge be publicly censured for persistent failure to perform his duties, and for conduct prejudicial to the administration of justice that brings the judicial office into disrepute (Cal. Const., art. VI, § 18, subd. (c)(2)). The charges related to the judge's failure to promptly decide cases, despite private admonishments and inquiries from the commission and the attorneys involved. In addition, the judge continued to execute salary affidavits and to receive his salary, even though submitted cases remained pending and undecided in his court for periods in excess of 90 days. The judge did not challenge the commission's findings or recommendation.

The Supreme Court adopted the commission's recommendation and publicly censured the judge. The court held that, after reviewing the record, it was satisfied that the conclusions of the commission were justified; the court's order served as the appropriate sanction. (Opinion by The Court.)

HEADNOTES

Classified to California Digest of Official Reports

(1) Judges § 6.2--Removal, Censure, and Other Discipline--Grounds--Failure to Promptly Decide Cases--While Continuing to Receive Salary.

A justice court judge's failure to promptly decide cases, despite private admonishments and inquiries from the Commission on Judicial Performance and the attorneys involved, amounted to a persistent failure to perform judicial duties and a violation of Cal. Code Jud. Conduct, canon 3A(5). Moreover, the judge's conduct, as well as his disregard of California law in executing salary affidavits and in receiving his salary even though submitted cases remained pending and undecided in his court for periods in excess of 90 days (Gov. Code, *535 §§ 68210, 71610; Cal. Const., art. VI, § 19), was conduct prejudicial to the administration of justice that brought the judicial office into

disrepute. Thus, it was appropriate that the judge be publicly censured.

[See Cal.Jur.3d, Judges, § 62 et seq.; Am.Jur.2d, Judges, § 18 et seq.]

COUNSEL

No counsel listed for this case.

THE COURT.

The Commission on Judicial Performance has recommended that we publicly censure Bernard P. McCullough, a Judge of the Justice Court, San Benito Judicial District, San Benito County, for "persistent failure ... to perform the judge's duties" and for "conduct prejudicial to the administration of justice that brings the judicial office into disrepute." (Cal. Const., art. VI, § 18, subd. (c)(2).) Judge McCullough has not challenged the commission's findings or recommendation.

Following the appointment of a special master, an agreed statement was received in lieu of testimony; the commission subsequently took into consideration favorable documentary evidence. Thereafter, the commission adopted the findings and conclusions of the special master that between 1982 and 1985, despite three private admonishments and inquiries from the commission and the attorneys involved, Judge McCullough failed to timely decide a case submitted to his court for a period of three years, nine months. In addition, he continued to execute salary affidavits and to receive his salary even though submitted cases remained pending and undecided in his court for periods in excess of 90 days. (See Gov. Code, § 71610; cf. Cal. Const., art. VI, § 19; Gov. Code, § 68210; *Mardikian v. Commission on Judicial Performance* (1985) 40 Cal.3d 473 [220 Cal.Rptr. 833, 709 P.2d 852].) (1) The commission concluded that the protracted delay and the failure to respond to party and commission inquiries amounts to a persistent failure to perform judicial duties and a violation of canon 3A(5) of the California Code of Judicial Conduct. Moreover, Judge McCullough's failure to promptly decide cases, despite private admonishments and inquiries from the commission and the parties, and his disregard of California law in executing salary affidavits and in receiving his salary, was "conduct prejudicial to the administration of justice that brings the judicial office into disrepute."

After reviewing the record, we are satisfied that the conclusions of the commission are justified, and that its recommendation should be adopted. This order will serve as the appropriate sanction." *536

Cal., 1987.

In re McCullough

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